HQ EnergyServices US
A subsidiary of Hydro-Québec

October 1, 2008

BY E-MAIL

Commissioner Philip Giudice
Commonwealth of Massachusetts
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, Massachusetts 02114

RE: H.Q. Energy Services (US) Inc.'s Written Comments In Connection With The DOER's RPS Import Feasibility Study

Dear Commissioner Giudice:

H.Q. Energy Services (US) Inc. ("HQUS") respectfully submits the following written comments in response to the request by the Massachusetts Department of Energy Resources ("DOER") for stakeholder comments in connection with the DOER's Renewable Portfolio Standard ("RPS") Import Feasibility Study. HQUS is the US subsidiary of Hydro-Québec Production, the generation division of Hydro-Québec and is headquartered in Hartford, Connecticut. In June 2007, HQUS qualified in the Massachusetts RPS program two 54 MW wind farms that are under contract to Hydro-Québec Production.

HQUS and its parent company Hydro-Québec Production also participate more broadly in the Northeast energy markets. Through a long term contract with Vermont utilities, Hydro-Québec Production supplies approximately one-third of Vermont's energy needs. Also, on a daily basis HQUS is typically delivering approximately 1200-1800 MW per hour into the New England energy market. These deliveries come from Hydro-Québec Production's portfolio consisting of 97% clean hydro generation. HQUS also contributes to the efficiency of the Northeast energy markets by trading between the regions on an hourly basis.

Pursuant to the Green Communities Act, the DOER seeks public comments from stakeholders as it evaluates the feasibility of implementing the following subsections:

> (c) The delivery of renewable energy into the ISO-NE control area, as described in subsection (b), shall not qualify under the renewable portfolio standard, notwithstanding such delivery into the ISO-NE control area, unless the generator of such renewable energy: (1) initiates the import transaction pursuant to a spot market sale into the ISO-NE administered markets or under a bilateral sales contract with a purchaser of the renewable energy located in the ISO-NE

control area by properly completing a North American Electric Reliability Corporation tag from the generator in the adjacent control area to either a node or zone in the ISO-NE control area; (2) complies with all ISO-NE rules and regulations required to schedule and deliver the renewable energy generating source's energy into the ISO-NE control area; and (3) commits the renewable generating source as a committed capacity resource for the applicable annual period.

(e) The renewable portfolio standard credit applicable to the eligible renewable energy as determined under subsection (d) shall be reduced by any exports of energy from the ISO-NE control area made by the person seeking renewable portfolio credit for such renewable energy or any affiliate of such person, or any other person under contract with such person to export energy from the ISO-NE control area and deliver such energy directly or indirectly to such person.

The DOER has proposed a series of four questions to be addressed during the comment period of August 18, 2008 through October 1, 2008 relating to the feasibility of (i) instituting a capacity requirement on electricity imported into the ISO-New England ("ISO-NE") control area from renewable generators located outside or adjacent to the ISO-NE control area (subsection (c)) and (ii) assessing whether and how such imports can be netted against certain exports of electrical energy (subsection (e)). The DOER specifically seeks stakeholder comments on the following questions:

1. How should "feasible" be defined and why?

2. Are implementation of subsections (c) and (e) of Section 105 of the Act feasible now? If not now, when and why?

3. If feasible, what mechanisms either are in place, or can and must be established to monitor and verify compliance of each subsection? What would be the cost (in terms of finance and/or time) for such monitoring and verification of each?

4. With regard to subsection (e), over what time spans and how frequently could and should import and export transactions be "netted"?

HQUS was invited to and participated in the DOER Stakeholder Forum held on September 23, 2008. HQUS submits the following additional written comments to further demonstrate that implementation of subsections (c) and (e) are at odds with the purposes and goals of the Massachusetts RPS program, and as such, are not feasible to implement.

HQUS feels very strongly that the DOER's analysis of the new capacity and netting requirements should be tempered by an approach that considers and balances a variety of relevant factors above and beyond whether the new provisions are simply capable of being implemented. Rather, the DOER's analysis must take into account several important interrelated factors, such as consideration of the economic, environmental, social and technological impacts that would flow from implementing any new standards. In our opinion, implementation of the capacity and netting provisions of the Green Communities Act undervalue and overlook those important factors, and, if implemented, may actually lessen the potential environmental benefits and increase the costs faced by Massachusetts consumers. With that approach in mind, there are several compelling reasons why subsections (c) and (e) of Section 105 of the Green Communities Act are impractical and should not be implemented.

1. For Purposes Of The Green Communities Act, It Is Impractical To Apply A "Plain Meaning" Definition Of "Feasible"

Question 1 seeks comment regarding "How should 'feasible' be defined and why?" For purposes of the Green Communities Act, HQUS believes that the term "feasible" should not be limited to its plain meaning, which would essentially confine the relevant analysis to the question of whether something is "capable of being done, executed or effected." Webster's Third New Int'l Dictionary. Instead, HQUS feels very strongly that the DOER's analysis of these new statutory provisions should be governed by an objective standard that considers and balances a variety of relevant factors above and beyond whether the new provisions are simply capable of being implemented. Rather, as mentioned above, the DOER's analysis must take into account several important interrelated factors, such as consideration of the economic, environmental, social and technological impacts that would flow from implementing the new standards. In conjunction with that analysis, the DOER also should weigh the new proposals against the overall policy goals and timelines necessary to achieve those goals. See, e.g., Cal. Pub. Res. § 21061.1 (defining "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors"); Am. Water Works Ass'n v. Envtl. Prot. Agency, 40 F.3d 1266, 1270-71 (D.C. Cir. 1994) (finding "where a literal reading of a statutory term would lead to absurd results, the term simply 'has no plain meaning . . . and is the proper subject of construction by the EPA and the courts'" and adopting the definition of "feasible" as "capable of being accomplished in a manner consistent with the Act").

Moreover, given that the RPS program operates within the ISO-NE energy market, the definition of "feasible" should incorporate an economic element that takes into account the possible implications -- both positive and negative -- that increased regulatory structures will have on the industry. See United Steel Workers of Am. v. Marshall, 647 F.2d 1189, 1264 (D.C. Cir. 1980) (defining economic feasibility and stating "the practical question is whether the standard threatens the competitive stability of an industry or, whether any intra-industry or inter-industry discrimination . . . might wreck such stability or lead to undue concentration."). See also Green Communities Act, Mass. Gen. Laws ch. 169, § 2 (definition of "economically feasible" includes comparison of costs of installing and/or operating alternate technology through

a life-cycle cost analysis, which evaluates short-term and long-term costs (including the value of creating RECs and other environmental and associated benefits) and the technical feasibility of using that alternate technology).

Importantly, the core purposes behind the RPS program as well as the important overall goals of the RPS program should be recognized and validated when defining and evaluating the meaning of "feasible." See, e.g., Friends of Boundary Waters Wilderness v. Robertson, 978 F.2d 1484, 1487 (8th Cir. 1992). Proposed subsections (c) and (e) of the regulations would hinder, rather than further accomplish those goals, since the active involvement of external suppliers, such as HQUS, are crucial to the success of the RPS and the competitive functioning of the market. As stated in the 2006 RPS Annual Report (dated February 15, 2008) (the "RPS Report"), "by providing incentives for a more diversified electric generation portfolio, RPS is expected to help reduce, over time, the Commonwealth's dependence on fuel imported from other regions or from overseas, especially increasingly expensive and volatile natural gas supplies." (RPS Report at 3.) The RPS "stimulates new development activity," (RPS Report at 4), and "[t]he financial incentive of RPS continues to provide its expected benefits to the Commonwealth of Massachusetts, as well as to the wider region. The immediate, direct benefit is the development of new renewable electric generating facilities, which yields the secondary benefits of more diversity in the state's supply of primary energy sources (with less fuel imported from other regions or from overseas) and a cleaner air emissions profile for the fleet of electric generating facilities (with less damage to human health and the environment)." (RPS Report at 6.)

Furthermore, it is clear from the RPS Report that facilities outside of the ISO-NE control area are essential members of the RPS program: "the major sources of increased output for RPS in 2006 were biomass plants in northern New England, landfill methane plants in New England and New York, and wind farms in Quebec." (RPS Report at 3.) In addition, "[w]hile RPS provides incentives to project development in Massachusetts and the rest of New England, the incentives also have had an effect in New York and in the neighboring maritime and Quebec provinces of Canada. Although participation of New York and Canadian new renewable generation units in the Massachusetts RPS market requires the additional expense of exporting the electricity to New England, such participation, which began in 2004 in New York, has been accelerating since then. Canadian sources joined New York's late in 2006 as a source of RPS supply, when a pair of 54 MW wind farms in Quebec were approved and commenced exports to the New England grid." (RPS Report at 5.) The crucial benefits that accrue to the RPS program as a result of the contributions of facilities outside of the ISO-NE control area (such as lower costs for Massachusetts consumers) are undeniable and ought to be given the weight and recognition in making any adjustment to the program so as to avoid adverse unintended consequences arising from adopting a narrow construction of "feasible" as applied to the Green Communities Act.

2. Implementation of Subsection (c) Is Not Feasible

Pursuant to proposed subsection (c), a generator importing into the ISO-NE will not qualify under the RPS unless that importer "commits the renewable generating source as a committed capacity resource for the applicable annual period."

A. The Capacity Market Participation Requirement Proposed By Subsection (c) Is Not Feasible Because Of The Adverse Financial And Economic Consequences To The RPS Market And The Commonwealth

Implementation of subsection (c) implicates significant negative financial consequences to the RPS market and the Commonwealth of Massachusetts and will result in a reduction in the supply of renewable energy into the ISO-NE. Under the basic principles of supply and demand, if the supply of qualified renewable energy into the Massachusetts RPS market is limited, the price of RECs will increase and likely revert to levels that approach the Alternative Compliance Payment ("ACP"), which will unnecessarily increase energy costs for Massachusetts consumers. Back of the envelope calculations indicate that external suppliers may account for 25% of the total REC supply in the Massachusetts RPS program. If those are eliminated, it is highly likely that REC prices will once again approach the ACP level. Since the DOER's own commissioned study entitled "Potential for Renewable Energy Development in Massachusetts" estimates that development of renewable energy sources in Massachusetts will only contribute up to 50% of the state's anticipated need, penalizing external suppliers is counterproductive and, ultimately, harmful to consumers because less renewable energy in the region will result in both higher costs in the RPS market and in the prices paid by Massachusetts consumers.

B. The Fundamental Differences Between The Energy-Based RPS Market and The Capacity Market Make Plain That Implementation Of Subsection (c) Is Not Feasible

The infeasibility of the capacity participation requirement mandated by subsection (c) is further bolstered by the fundamental differences between the energy-based RPS market and the capacity market. The RPS market is an energy-based market, in which retail supplier renewable energy requirements are based on a percentage of the energy they serve, not a percentage of the capacity they serve. The capacity market in the ISO-NE region, however, has structural limitations that restrict market opportunities in fundamentally different ways than those that may affect participants in the energy-based RPS market, and that difference encapsulates the economic infeasibility of such a requirement.

As an initial matter, the New England capacity market is fully subscribed through 2015, making it financially infeasible (and practically impossible) for new capacity (i.e., external generators required to participate pursuant to subsection (c)) to participate. If importers cannot participate in the capacity market, the renewable energy they are prepared to deliver into New England will never make it to that market at all.

In addition, the requirement proposed by subsection (c) is contrary to the objectives and goals that the ISO-NE set out to achieve by having implemented the Forward Capacity Market ("FCM"). The FCM was put into place to ensure that the ISO-NE can secure its system with reliable resource deliveries when the needs present themselves in real-time. In fact, internal suppliers can offer intermittent resources into FCM, but the qualification process for those resources implies additional or more precise evaluations of their contribution to reliability hours.[1] Moreover, Installed Capacity ("ICAP") is managed by the ISO-NE, not RPS and implementation of subsection (c) would not provide the ISO-NE with a reliable source of ICAP. Subsection (c) conflicts with the underlying goal of the FCM, as it would likely only add generation that is intermittent and therefore unreliable for capacity resources.

Moreover, the New England FCM is just that -- a market. For an external supplier to participate in the market, New England must be in need of capacity above and beyond the capacity that already exists in New England (which would not occur until 2015). During Forward Capacity Auction number 1, held at the beginning of 2008, there was enough capacity qualified to meet the 2014 capacity requirement without taking into account any new resources that might come on line. In order to participate, external suppliers must go through a qualification process and, more importantly, must offer their generation at a price that is accepted through a highly competitive auction process. Those hurdles will reduce the supply of renewable energy in New England, and increase the price of RECs and the costs to Massachusetts consumers.

i. Restrictions On Capacity Will Become Restrictions On Energy

Requiring external renewable generators to also participate in the capacity market does nothing more than create an unnecessary hurdle for those external generators. As previously mentioned, the first New England capacity market (which is run by auction and completely independent of and unrelated to the RPS market) is fully subscribed through 2015, making it financially infeasible for new capacity to participate. More importantly, the proposed capacity requirement will result in a reduction of the supply of energy to New England in two independent -- but significant -- ways:

First, the transmission ties that connect New England to surrounding markets can deliver a maximum of approximately 3925 MW per hour of energy but only 2065 MW of capacity (for 2010-2011). So immediately, implementation of subsection (c) would reduce the potential renewable energy from outside of New England by 47%. When the supply of

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[1] See FERC electric tariff no. 3, Section III.13.1.2.2.2 of Market Rule 1. That section explains how the ISO evaluates the contribution of an Intermittent Power Resource during (i) Summer and Winter Intermittent Reliability Hours (which are defined as hours ending 1400 through 1800 each day, from June through September for the summer period and from October through May for the winter period), (ii) all hours that the ISO declares a system-wide shortage and (iii) all shortage events declared of the supplier's zone.

renewable energy is reduced, the price of RECs (and, by extension, the cost to Massachusetts consumers) increases.

Second, the timing for the participation in the New England FCM is such that the qualification process takes place four years prior to the delivery year. For example, an external renewable supplier who would like to sell renewable energy to Massachusetts in 2012, was required to alert the ISO-NE of its interest to participate in the FCM before September 2, 2008. Obtaining approval through existing regulatory procedures will preclude any new external suppliers from providing renewable energy for sale in the market before 2013. As with the transmission ties, the impact of the proposed capacity requirement will only further limit the available supply of renewable energy in New England, and as a result, increase the prices of RECs and the cost to Massachusetts consumers.

ii. The Discrepancy Between External And Internal Intermittent Suppliers In The Capacity Market Places An Unnecessary And Unreasonable Financial Burden On External Intermittent Suppliers

The infeasibility of subsection (c) is also demonstrated by the capacity market's penalties and requirements that are applicable only to external intermittent generators like HQUS. External renewable suppliers already face financial risks and burdens that internal suppliers do not face because external suppliers are required to schedule energy into New England on a day-ahead basis. For example, only external suppliers in the capacity market are penalized if those suppliers are unable to deliver energy during shortage hours in New England. More importantly, as provided by FERC electric tariff no. 3, Section III of Market Rule 1, if an external resource is performing poorly due to consistently bad weather, the ISO-NE can prevent that resource from participating in an upcoming FCM[2] and offering renewable energy to Massachusetts. By contrast, internal generators are not required to schedule day-ahead or required to participate in the capacity market. Faced with these additional risks, external suppliers are likely to be unable to participate, thereby decreasing the supply of renewable energy into New England, and increasing the price of RECs and the costs to Massachusetts consumers.

Subsection (c) therefore widens the inequity between external and internal intermittent resources, which are not required to be a capacity resource. Moreover, the risk of being penalized for non-delivery in the capacity market introduces a financial risk for external capacity resources that is unrelated to the energy delivery responsibility of resources committed to meeting the RPS.

3. Implementation Of Subsection (e) Is Not Feasible

Pursuant to subsection (e), RECs "shall be reduced by any exports of energy from the ISO-NE control area made by the person seeking renewable portfolio credit for such

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2 See Section III.13.7.1.1.5.

renewable energy or any affiliate of such person, or any other person under contract with such person to export energy from the ISO-NE control area and deliver such energy directly or indirectly to such person." In addition to the fact that subsection (e) would be effectively impossible to implement in actual practice, the negative financial impact that subsection (e) would have on the energy trading market, the RPS program and the Commonwealth of Massachusetts in its restrictive application to non-renewable exports makes plain that implementation of subsection (e) is not feasible.

A. Subsection (e) Is Effectively Impossible To Implement In Actual Practice

Subsection (e) proposes that RECs of an RPS importer shall be reduced by any exports of energy from New England made by the RPS importer or any other person under contract with the RPS importer. In reality, subsection (e) is not feasible because it cannot be executed in an economic or efficient manner.

The New England energy market includes nearly 300 participants who are buying and selling energy among themselves on an hourly, daily, weekly, monthly and annual basis. Attempting to track whether energy sold by an RPS importer to another market participant in New England is ultimately exported from New England would require a significant increase in oversight and, even then, is likely an impossible task in actual practice. Furthermore, in many instances, energy may change hands many times among parties within the New England market before it is exported, further complicating any attempt to track that energy. Energy purchased by a buyer in New England is credited to that buyer's total portfolio of energy purchases and generated energy. If that buyer subsequently exports energy from its portfolio, it is impossible to determine the original source of the exported energy under current market conditions and practice, and any attempt to do so would be arbitrary and imprecise. It is also unfair to hold one independent party accountable for the subsequent conduct of the other, particularly when the commercial activities of the other are part and parcel of ongoing and robust market conduct.

B. Subsection (e) Will Negatively Impact And Restrict Inter-Regional Energy Trading

The infeasibility of subsection (e) is also demonstrated by the negative economic impact on inter-regional energy trading. In addition to supplying renewable energy into the New England market, RPS program participants (including HQUS) also participate more broadly in the Northeast energy markets through energy trading between markets. Energy trading, a process in which a company buys energy in a lower cost market and delivers it to a higher cost market, is a common practice in the industry and a key component of efficient energy markets, as it contributes to the liquidity, reliability and economics of both markets. By netting exports of non-renewable energy from imports of renewable energy, subsection (e) would unfairly and unnecessarily restrict the energy trading operations of RPS program participants and essentially penalize external renewable suppliers for engaging in this activity by deducting a REC for every MW purchased in New England and exported to another market. Those consequences leave RPS participants who participate in energy trading between regions with two options: shut down

trading activities in New England or deliver our renewable energy to another market. Either option has an undesirable impact on the functioning of the markets.

Subsection (e) would severely limit, if not eliminate, those participants' ability to trade energy between New England, New York and New Brunswick. Energy imports and exports between regions are extremely important, providing both economic and reliability benefits. Parties that purchase energy in a lower cost region and export and sell it in a higher cost region on an hour-by-hour basis are contributing to the economic health of both regions. In addition, adjacent control areas traditionally rely on each other for reliability purposes. For example, Québec is a winter peaking control area, while New England is a summer peaking control area, and therefore natural allies for reliability support. Aside from the fact that the legislation does not define the "period" of measurement for net exports, there is a possibility that there will be periods where net importers are treated like net exporters of energy. Inhibiting parties from trading energy inter-regionally by linking it to RPS program participation is a potentially costly and risky endeavor.

C. Subsection (e) Is Not Feasible Due To Its Restrictive Application To Non-Renewable Exports

On their face, the imports requirements appear to tilt the regulatory balance in favor of internal versus external suppliers of qualified energy. Indeed, subsection (e) proposes deducting RECs only from importers that export energy from New England. Such proposed deduction is not feasible, however, because it only looks at half of the equation, and arbitrarily discriminates against importers rather than all RPS participants who export from the New England region. HQUS has attempted to understand what possible rationales may exist for this bias or may influence the DOER to implement these standards despite such bias. Each possibility, however, fails to withstand objective scrutiny.

One possible rationale behind subsection (e) is the belief that exportation of energy from the region has a negative environmental impact because New England has to increase production of non-renewable energy to support that energy export. In other words, subsection (e) attempts to link the importation of renewable energy to the generation of non-renewable energy in New England. If that is in fact the rationale behind subsection (e), the regulation should apply to all exports from New England, whether linked to a REC delivery or not, since any export results in an increase in non-renewable production in New England.

In addition, the proposed regulation only covers half of the equation. It logically follows that if exports from New England are considered to increase non-renewable generation in New England then imports into New England must also decrease the non-renewable system energy produced in New England. Subsection (e), however, is silent as to imports. If the DOER is committed to implementing a netting standard, then its approach to this issue must treat imports and exports in an even-handed manner on a net basis.

Subsection (e) may also be designed to prevent parties from wheeling renewable energy through New England but still getting paid for the RECs. The North American Electric

Reliability Corporation ("NERC") tagging process, however, already addresses this issue. NERC tags are required by the Massachusetts RPS program and clearly show the source of the energy and the sink (or region of consumption) of the energy. The Massachusetts RPS program requires that the source be the external renewable generator and the sink be the ISO-NE, which resolves any "wheel through" concerns without resorting to complex and costly further regulation.

Additionally, implementation of subsection (e) would interfere with the goals of the Regional Greenhouse Gas Initiative ("RGGI") that will become effective in January 2009. The goal of RGGI is stated in 310 CMR 7.70 Final Version, art. 7.70 (1) (a), "3.10 CMR 7.70 establishes the Massachusetts CO_2 Budget Trading Program, which is designed to stabilize and then reduce anthropogenic emissions of CO_2, a greenhouse gas, from CO_2 budget sources in an economically efficient manner." Pursuant to RGGI, fossil generators will be subject to a new regulation that requires them to purchase allowances for every ton of CO_2 that they emit. Therefore, every non-renewable MW exported will already have been covered by a RGGI allowance and that energy should not be penalized a second time through new export netting procedures in the Massachusetts RPS program.

D. The Proposed Export Netting Requirement Of Subsection (e) Is Not Feasible Because It Will Result In Negative Financial And Economic Consequences To The RPS Market And The Commonwealth

As with subsection (c), implementation of subsection (e) will cause significant negative financial and economic consequences to the RPS market and the Commonwealth of Massachusetts. The ultimate impact of subsection (e) will be a dramatic decrease in the current and future supply of renewable energy into New England and an increase in REC prices and in energy costs for the Massachusetts consumers. Without question, those effects cause subsection (e) to fail under any practical definition of "feasible."

The Massachusetts RPS is just now reaching the point where there are enough RECs in the marketplace. As presented in the DOER's Annual Report for 2006, the RPS market is at a point where equilibrium between supply and demand of RECs is possible in the near future. Subsection (e)'s proposed deduction of RECs due to the export netting requirement would only reduce the already-low number of RECs available and negatively impact the currently-healthy REC market. Indeed, implementation of subsection (e) will only serve to ensure that: (i) the Commonwealth continues to fall short of its renewable energy goals, (ii) REC prices remain at the highest level and (iii) Massachusetts consumers will continue to pay high energy costs.

4. In The Event That The DOER Determines The Proposed Subsections Are "Feasible," The Regulations Should Still Be Modified To Remain Consistent With The Goals Of The RPS

Even if the DOER elects to adopt a "plain meaning" construction of "feasible," implementation of subsections (c) and (e) will not be "feasible," or simply capable of being done,

due to the significant countervailing considerations noted above regarding the fundamental differences between the capacity market and the RPS market, the negative financial consequences on the RPS market, energy trading and the Commonwealth of Massachusetts, and the arbitrary and imprecise methods of application to external generating resources and non-renewable exports. If, however, the DOER determines implementation of those subsections is feasible, HQUS submits that certain aspects of the proposed regulations should be adjusted before implementation takes effect, in order to ameliorate to the extent possible the numerous deficiencies that currently exist:

(i) If the DOER determines that the capacity and netting requirements are feasible, an additional provision should be added to grandfather in participants already qualified under the RPS so those generators are exempt from the application of the new regulations. Grandfathering in previously-qualified participants would provide stability to the proper functioning of the RPS program.

(ii) The application of subsection (c) to external suppliers to the ISO-NE is arbitrary and inequitable. If subsection (c) is to be implemented, it should apply in non-discriminating fashion to both external and internal suppliers to the ISO-NE. Currently, Massachusetts RPS-qualified generators located in New England are not required to participate in the New England capacity market in order to sell their RECs in Massachusetts.

(iii) As described in more detail above in Section 3, HQUS does not believe there should be any netting of exports of energy from New England. If, however, subsection (e) is implemented, HQUS proposes that the process for netting energy exports should be based on net exports after consideration of all imports. Alternatively, HQUS submits that the time span for netting import and export transactions should be on an hourly basis, so as to not conflict with the active market for RECs and energy trading.

(iv) Under current regulations, internal New England RPS-qualified generators do not have their RECs reduced by any exports of energy that they may make from the ISO-NE control area. If netting exports of non-renewable energy from a renewable generator's RPS credit is considered a feasible concept, it should be applied uniformly to both internal and external suppliers to avoid being arbitrary or inequitable.

(v) Holding an RPS importer financially responsible (by debiting their REC account) for the actions of a trading partner who is not within their control is inequitable and unfair. In the competitive New England energy market, energy often changes hands many times before it is ultimately consumed. It would be unfair to hold an RPS importer financially responsible if the energy it sells to a buyer in New England is subsequently exported by that buyer (or by more attenuated downstream participants in the market that may buy from the original buyer). Therefore, subsection (e) should be limited only to those parties who are within the actual control of the RPS importers, rather than counterparty relationships as a result of contractual market activity.

(vi) During the stakeholder forum on September 23, 2008, a self-certification proposal was raised as a possible response to the issue addressed by subsection (e). Massachusetts RPS-qualified suppliers already certify every year in conformity with the Statement of Qualification that the Generation Unit's New Renewable Generation Attributes used for compliance with the Massachusetts RPS during the previous Compliance Year have not otherwise been, nor will be, sold, retired, claimed, or represented as part of electricity outputs or sales, or used to satisfy obligations in jurisdictions other than Massachusetts. Rather than implement subsection (e), HQUS proposes that, similar to the certification requirement already in place in the Massachusetts RPS program, a Generation Unit also self-certify that it is not exporting the imported renewable energy out of New England.

In conclusion, HQUS appreciates the importance of encouraging development of renewable generation and is dedicated to supplying qualified energy to the ISO-NE. However, we respectfully submit that the proposed imports issues subsections will not further those goals. Thus far, the Massachusetts RPS market has been a success, with nearly 75% of the goals met with RECs in 2006 and the 2007 requirements expected to be fully satisfied by combined internally and externally generated RECs. Implementation of subsections (c) and (e), however, would significantly undermine the progress that has been made. The proposed capacity and netting requirements will result in a severe reduction in the supply of renewable energy, thereby lessening the potential environmental benefits and increasing the prices of RECs and the ultimate energy costs passed onto Massachusetts consumers.

Respectfully submitted,

Stephen Molodetz
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H.Q. Energy Services (U.S.), Inc.